

SECOND REGULAR SESSION

HOUSE BILL NO. 1907

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHAUL.

3922H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the sale of returnable containers, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.317, to read as follows:

407.317. 1. As used in this section, the following terms mean:

(1) "Proof of ownership", a bill of sale or other evidence showing that an item has been sold to the person possessing the item;

(2) "Recycler", a person who is in the business of recycling, shredding, or destroying returnable containers;

(3) "Returnable container", a device made of any material that is used to hold, contain, or convert goods into a package and is suitable for repeated use. "Returnable container" includes, but is not limited to, baskets, trays, or other containers used by a product producer, distributor, or retailer for the transportation or storage of goods.

2. (1) Before a recycler purchases five or more returnable containers from the same person, the recycler shall obtain from the person selling the containers:

(a) Proof of ownership for the containers; and

(b) A record that contains:

a. The name, address, and telephone number of the seller or the seller's authorized representative;

b. The name and address of the buyer of the containers or any consignee of the containers;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 c. A description of the containers with the number of the containers to be sold;
19 and

20 d. The date of the transaction.

21 (2) Before a recycler purchases five or more returnable containers from the
22 same person, the recycler shall:

23 (a) Verify the identity of the person selling the containers or representing the
24 seller from a driver's license or other government-issued identification that includes the
25 person's photograph and record the verification; or

26 (b) In a manner determined by the recycler, verify that the person is acting on
27 behalf of a corporation, business, government, or governmental subdivision or agency.

28 (3) A recycler shall retain a record obtained or made under this section until the
29 first anniversary of the later of the dates the containers are purchased or delivered.

30 (4) (a) a. A recycler who purchases a returnable container from a person shall
31 not pay for the purchase of any returnable container with cash unless the recycler
32 verifies, in a manner determined by the recycler, that the person is acting on behalf of a
33 corporation, business, government, or governmental subdivision or agency.

34 b. The recycler shall, for each transaction in which the recycler purchases one or
35 more returnable containers, record the method of payment used to purchase the
36 containers.

37 (b) A record made under paragraph (a) of this subdivision shall be attached to a
38 record made or obtained under subdivision (1) of this subsection if a record is required
39 under subdivision (1) of this subsection.

40 (c) a. A person who violates paragraph (a) of this subdivision shall be liable for a
41 civil penalty not to exceed five thousand dollars for each violation.

42 b. Each cash transaction made in violation of subparagraph a. of paragraph (a)
43 of this subdivision is a separate violation for purposes of imposing a penalty under this
44 paragraph. In determining the amount of the civil penalty imposed under this
45 paragraph, the court shall consider the amount necessary to deter future violations.

46 (5) A person who violates subdivisions (1) to (3) of this subsection is liable for a
47 civil penalty of ten thousand dollars for each violation.

48 3. A recycler shall not employ any artifice to avoid the application of subsection
49 2 of this section, including documenting purchases from the same person on the same
50 day as multiple transactions. A recycler who violates this subsection is liable for a civil
51 penalty of thirty thousand dollars for each violation.

52 4. (1) The attorney general or appropriate prosecuting attorney may:

53 (a) Inspect a record retained by a person under subsection 2 of this section;

54 (b) Investigate an alleged violation of this section; and

55 (c) Sue to collect a civil penalty under this section.

56 (2) The attorney general or appropriate prosecuting attorney may recover
57 reasonable expenses including, but not limited to, court costs, attorney's fees,
58 investigative costs, witness fees, and deposition expenses incurred in recovering a civil
59 penalty under this subsection.

60 5. In addition to the civil penalties provided for violations of this section, a
61 recycler who violates this section is guilty of a class C misdemeanor.

62 (1) If the total purchase price of the returnable containers to which the violation
63 relates is less than one thousand dollars, the fine imposed under this subsection shall not
64 exceed three hundred fifty dollars, except as provided by subdivision (3) of this
65 subsection.

66 (2) If the total purchase price of the returnable containers to which the violation
67 relates is one thousand dollars or more, the fine imposed under this subsection shall not
68 exceed seven hundred dollars, except as provided in subdivision (3) of this subsection.

69 (3) If the defendant has been previously convicted of a violation of this section
70 based on the same type of violation, the fine imposed under this subsection shall not
71 exceed twice the maximum amount of the fine imposed under this subsection for a first
72 violation of this section.

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